

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Feb 21, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ALLIANCE FOR THE WILD  
ROCKIES,

Plaintiff,

v.

UNITED STATES FOREST  
SERVICE, VICKI CHRISTIANSEN,  
Chief of the Forest Service, KIRISTIN  
BAIL, Forest Supervisor for the  
Okanogan-Wenatchee National Forest  
Service, GLENN CASAMASSA,  
Regional Forester for Region 6 for the  
U.S. Forest Service, and UNITED  
STATES FISH AND WILDLIFE  
SERVICE,

Defendants.

No. 2:19-cv-00350-SMJ

**SCHEDULING ORDER**

A telephonic status conference was held in the above-entitled matter on **February 13, 2020**. Zachary Knox Griefen and Kristine M. Akland appeared on behalf of Plaintiff. Vanessa Waldref appeared on behalf of Defendants. A Joint Status Certificate, ECF No. 6, was filed by the parties. The Court, having reviewed the documents in the file and discussed the adoption of a scheduling order with counsel, now enters the following Scheduling Order. The dates set forth in this

1 Order may be amended **only** by Order of the Court and upon a showing of good  
2 cause.

3 **IT IS ORDERED:**

4 **1. Rule 26(a)(1) Exchange/Administrative Record**

5 The parties agree that this case is an action for review of an administrative  
6 record and, thus, is exempt from Rule 26 (a)(1). However, **Defendants** shall file the  
7 administrative record no later than **May 13, 2020**.

8 **2. Add Parties and Amend Pleadings**

9 The parties agreed that Plaintiff may file an amended complaint no later than  
10 February 12, 2020. The parties also agreed to file any documents related to the  
11 addition of parties no later than February 12, 2020. The First Amended Complaint  
12 was filed on February 12, 2020. ECF No. 8. Defendants shall file a response to  
13 Plaintiff's First Amended Complaint no later than **April 13, 2020**.

14 **3. Supplement Administrative Record and Briefing Schedule as to**  
15 **Motions for Summary Judgment**

16 Any motions to **Supplement the Administrative Record** shall be filed no  
17 later than **June 12, 2020**. **Plaintiff** shall file their **Motion for Summary Judgment**  
18 and briefs in support no later than **July 10, 2020** and be limited to 10,000 words.  
19 **Defendants'** combined **Cross Motion for Summary Judgment** and **response** to  
20 Plaintiff's motion for summary judgment shall be filed no later than **August 21,**

2020 and be limited to 15,000 words. **Plaintiff's** combined briefs in response to Defendants' Cross Motion for Summary Judgment and reply shall be filed no later than **September 18, 2020** and be limited to 6,500 words. **Defendants'** reply shall be filed no later than **October 9, 2020**.

A hearing to address **Plaintiff's Motion for Summary Judgment** and any **Cross Motion for Summary Judgment** filed by Defendants' shall be noted for oral argument *if needed* for **November 10, 2020 at 10:30 A.M. in Spokane**.

#### **4. Dispositive and *Daubert* Motions**

##### **A. Generally**

All dispositive and *Daubert* motions shall be **FILED AND SERVED** on or before **August 21, 2020**. Responses and replies to dispositive and *Daubert* motions shall be filed and served according to Local Civil Rule 7, except where more specific requirements are noted above. No supplemental responses or supplemental replies to any dispositive or *Daubert* motions may be filed unless the Court grants a motion to file such documents.

##### **B. Statement of Uncontroverted Facts**

The parties shall also file a Joint Statement of Uncontroverted Facts **no later than three (3) days** (excluding federal holidays and weekends) after service of the reply, with a courtesy copy emailed to [MendozaOrders@waed.uscourts.gov](mailto:MendozaOrders@waed.uscourts.gov).

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1                   **C. Notice of Hearing**

2           Dispositive and *Daubert* motions shall be noted for hearing at least **fifty (50)**  
3 **days** after the date of filing. The parties will receive only one (1) hearing date per  
4 month for dispositive motions of up to five (5) issues per party.

5                   **5. Certification to the State Supreme Court**

6           The parties must identify any issue of liability or damages which should be  
7 certified to the Washington State Supreme Court no later than the date for the filing  
8 of dispositive motions.

9                   **6. Motion Practice**

10                   **A. Notice of Hearing**

11           All matters requiring Court action must be filed and noted for hearing in  
12 accordance with Local Civil Rule 7. This includes stipulated or agreed motions and  
13 proposed orders. If a party seeks oral argument, counsel shall contact the Courtroom  
14 Deputy at 509-943-8173 to obtain a hearing date and time. **Absent exceptional**  
15 **circumstances, all hearings with oral argument will occur in Court and not by**  
16 **telephone or video conference.**

17                   **B. Witness Testimony**

18           At any hearing, including trial, in which witness testimony is given, the  
19 witness must testify in Court and may not appear by telephone or video conference,  
20 absent exceptional circumstances.

1                   **C.     Citing Previously Filed Documents**

2           When a party references a document previously filed with or by the Court,  
3 the party shall cite to the document by the record number given to the document by  
4 the Clerk of the Court (e.g., ECF No. 43). Furthermore, because the Court is able to  
5 easily review previously filed court records, no such documents shall be attached  
6 as exhibits to any filing.

7                   **D.     Reliance on Deposition Testimony**

8           When a party relies on deposition testimony to support a position it takes in  
9 support or opposition to an issue, that party shall provide the Court with only the  
10 pertinent excerpts of the deposition testimony relied upon and shall cite to page and  
11 line numbers of the deposition it believes supports its position. *See generally* LCivR  
12 56(c)(1), (e). Submission of the entire deposition and/or failure to cite to specific  
13 portions of the deposition may result in the submission being stricken from the  
14 record. *See Orr v. Bank of Am*, 285 F.3d 764, 774–75 (9th Cir. 2002).

15           In addition, if both parties submit excerpts from the same deposition, they  
16 shall meet and confer to develop a “master” deposition submission, which identifies  
17 for the Court the deposition excerpts relied upon by each party. Plaintiff shall  
18 highlight excerpts in yellow and Defendants shall highlight excerpts in blue;  
19 testimony relied upon by both parties shall be underlined. Master deposition  
20 submissions shall be filed no later than three (3) days after service of the reply.

1                   ***E.*     Supplemental Responses or Replies**

2           No supplemental responses or supplemental replies to any motion may be  
3 filed unless the Court grants a motion to file such documents.

4                   ***F.*     Motions to Reconsider**

5           Although motions to reconsider are disfavored, any such motion shall be filed  
6 no later than fourteen (14) days after the filing date of the order that is the subject  
7 of the motion and shall be noted for hearing **without oral argument**. No responses  
8 or replies to motions to reconsider shall be filed unless the Court expressly requests  
9 responses or replies. Counsel shall follow Civil Rule 7(h) of the Local Rules for the  
10 United States District Court for the Western District of Washington. **Motions to**  
11 **reconsider shall not exceed five (5) pages.**

12                   ***G.*     Requests to Strike Material Contained in Motion or Briefs**

13           Requests to strike material contained in or attached to submissions of  
14 opposing parties shall not be presented in a separate motion to strike, but shall  
15 instead be included in the responsive brief, and will be considered with the  
16 underlying motion. The single exception to this rule is for requests to strike material  
17 contained in or attached to a reply brief, in which case the opposing party may file  
18 a surreply requesting that the Court strike the material, subject to the following:  
19 (i) that party must file a notice of intent to file a surreply as soon after receiving the  
20 reply brief as practicable; (ii) the surreply must be filed within five (5) days of the

1 filing of the reply brief, and shall be strictly limited to addressing the request to  
2 strike; any extraneous argument or a surreply filed for any other reason will not be  
3 considered; (iii) the surreply shall not exceed three (3) pages; and (iv) no response  
4 shall be filed unless requested by the Court.

5 This does not limit a party's ability to file a motion to strike otherwise  
6 permitted by the Federal Rules of Civil Procedure, including Rule 12(f) motions to  
7 strike material in pleadings. The term "pleadings" is defined in Rule 7(a).

#### 8 **H. Decisions on Motions**

9 The parties and counsel may call the Judge's chambers at 509-943-8160 to  
10 inquire about the status of a decision on a motion if the Court has not issued an  
11 order within thirty (30) days of the motion's hearing date.

#### 12 **I. Courtesy Copies**

13 Counsel are instructed to email courtesy copies of their joint and individually  
14 proposed jury instructions, in Microsoft Word or text-only format, to  
15 [MendozaOrders@waed.uscourts.gov](mailto:MendozaOrders@waed.uscourts.gov).

### 16 **7. General Court Protocol**

#### 17 **A. Conduct of Counsel**

18 Counsel are to read and abide by Local Civil Rule 83.1 and Washington Rule  
19 of Professional Conduct 3.4.

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### **B. Exhibits at Hearings**

In accordance with Local Civil Rule 83.1(f), each party shall bring to any hearing on the merits, photocopies of their relevant pre-marked exhibits for the Court, opposing counsel, and testifying witness, unless it is not possible to do so because of the nature of an exhibit.

### **C. Time Sensitive Material**

Any time-sensitive materials should be faxed to the Judge's chambers at 509-943-8161.

### **D. Emailing the Court**

Whenever a party emails documents, as required by the Court, to [MendozaOrders@waed.uscourts.gov](mailto:MendozaOrders@waed.uscourts.gov), those documents shall be in Microsoft Word or text-only format. Additionally, the subject line of the email shall be as follows: [Case Name; Case Number; Document Title; Label for Attached Document].

## **8. Summary of Deadlines**


Rule 26(a)(1) exchange	<b>Exempt</b>
Deadline to add parties and amend Complaint	<b>February 12, 2020</b>
Defendants' Submission of Administrative Record	<b>May 13, 2020</b>
Defendants' Response to Plaintiff's Amended Complaint	<b>April 13, 2020</b>
Motion to Supplement Administrative Record	<b>June 12, 2020</b>



1 2 3 4 5	Plaintiff's Motion for Summary Judgment:  Defendants' combined Cross Motion for Summary Judgment and response to summary judgment:  Plaintiff's combined response and reply:  Defendants' reply:	<b>July 10, 2020</b>  <b>August 21, 2020</b>  <b>September 18, 2020</b>  <b>October 9, 2020</b>
6	All dispositive, <i>Daubert</i> , and state certification motions filed	<b>August 21, 2020</b>
7 8	<b>Hearing on Motion for Summary Judgment and Cross Motion for Summary Judgment</b>	<b>November 10, 2020 at 10:30 A.M. in SPOKANE</b>

9           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
10 provide copies to all counsel.

11           **DATED** this 21<sup>st</sup> day of February 2020.

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13   
14 SALVADOR MENDOZA, JR.  
United States District Judge